

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

U.S. BANK, NATIONAL ASSOCIATION, in its capacity as Trustee, JOSHUA N. TERRY, AND ACIS CAPITAL MANAGEMENT, L.P.,

Plaintiffs,

-against-

THE CHARITABLE DONOR ADVISED FUND, L.P., CLO HOLDCO LTD., AND NEXPPOINT DIVERSIFIED REAL ESTATE TRUST,

Defendants.

CASE NO. 1:21-cv-11059 (GHW)

NOTICE OF MOTION FOR  
LEAVE TO ADD PARTY

PLEASE TAKE NOTICE that, upon the accompanying Motion and Memorandum of Law, Defendant/Counter-Plaintiff NexPoint Diversified Real Estate Trust moves this Court, before the Honorable Gregory H. Woods, at the United States Courthouse, 500 Pearl Street, Courtroom 12C, New York, NY, for an Order recognizing the addition of or, in the alternative, adding Brigade Capital Management, LP as a counter-defendant to this action, pursuant to Federal Rules of Civil Procedure 13(h), 15(a)(1), 20(a)(2), and/or 21.

Dated: April 10, 2023

Respectfully submitted,

**SBAITI & COMPANY PLLC**

/s/ Mazin A. Sbaiti

**Mazin A. Sbaiti** (NY Bar No. 4339057)

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